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THE LAW AND THE OFFENCE:

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A

LECTURE

ON THE SUBJECT OF

PROHIBITORY LAWS,

IN REGARD TO THE USE OF

INTOXICATING DRINKS.

BY

REV. J. C. LOVEJOY,

CAMBRIDGEPORT.

Price \$5.00 per 100—single copy 8 cents.

BOSTON:

PRINTED BY CHARLES C. P. MOODY, OLD DICKINSON OFFICE,
No. 52 Washington Street.

1852.

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Cambridge, March 18, 1852.

DEAR SIR,—

The undersigned, who were among the few who were permitted, by the inclemency of the weather, to listen to the discourse which you delivered on Sunday evening last, upon the proposed law, known as the "Maine Liquor Law," now under consideration in the Legislaturc of Massachusetts, being desirous that both sides of the question may be fully presented, respectfully request a copy of your discourse for publication.

Your obedient serv'ts,

JUSTIN A. JACOBS,
J. LIVERMORE,
S. P. HEYWOOD,
A. CHAMBERLAIN,
G. W. LIVERMORE,
FRANCIS HUNT,
JOHN MANNING.

REV. J. C. LOVEJOY.

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LECTURE.

"MOREOVER THE LAW ENTERED THAT THE OFFENCE MIGHT ABOUND."

(*Romans 5: 20.*)

THIS is the invariable influence of law upon a corrupt mind. It makes the offence abound. Restrictions upon the manifestations of an inward desire, inflame that desire. Parricides, said Seneca, began by law. So Chrysostom, "where we covet anything, and are hindered from obtaining it, the flame of our inordinate desire is the more augmented." If there is nothing in the prohibition to subdue the inward desire, that desire presses against the barrier, and resisted, recoils with irritation upon itself, summons new strength to break forth, *if it can*. Now one of two things must happen; you must have power enough in your penalty, to maintain the law against the original desire, and these augmented forces of the desire, or your law is prostrate. Or else when you find this newly developed power prostrating the law, and trampling on the penalty, you must resort to some new expedient.

The impotence of the Law of God on moral beings, is met by God by the *power* of the gospel.

"For what the law could not do in that it was weak through the flesh, God, sending his own Son in the likeness of sinful flesh, and for sin, condemned sin in the flesh, that the righteousness of the law might be fulfilled in us who walk not after the flesh, but after the Spirit."

The gospel brings men up to the mould of the law, by penetrating to the heart, and working there. It sends pardoning love home to the soul, and causes it to thrill with the joys of forgiveness, and then leads it easily in the path of holiness, the way of eternal life.

The depraved heart of man, and therefore the uneasy and restless heart, generates within itself corrupt and inordinate desires; those desires flame forth in diseased appetites, and set on fire the whole course of nature, and are set on fire of hell. These inward burning desires give all the force and the strength to temptation, spread death within, and crime and woes without.

When you introduce a new law, you must look to it, that you have power, not only to crush whatever opposition may now exist, but also all that may be excited by the irritation which your law will produce.

And now I know very well the conditions under which I speak in regard to the proposed *Prohibitory Law* upon the subject of intoxicating liquors, and I accept those conditions. If I do not make out a reasonable ground of opposition, I must be condemned. I know very well the excitement that now prevails, and will increase upon this subject, and in the midst of that flame, I must stand, and perhaps be consumed, and perhaps not. I would have avoided it if I could; but neutrality

upon any subject where you have formed a definite opinion, is a position only for a coward, and one that no man can long occupy, without forfeiting his own self-respect, and doing violence to his moral nature.

We are apt, however, to comfort ourselves some way, and I remember truth has been in the fire before, and never came out the worse for it. One thing should console those who are opposed to what I say; there are multitudes upon the other side to answer it. And then when you have nailed your colors to the mast, and written "*Prohibitory Law*," upon them, and I have written the old motto, "Light and Love," we will launch our temperance barks upon the great ocean of the future, and sit down by the shore as true philosophers, and see which escapes the ice bergs, which the rocks, and which goes down as the model for future ages. And if you feel that the case is made out against the law, and you are determined not to yield it up, why, then you can get vexed, say hard things, let your indignation flame up,—holy indignation of course,—but just remember that *holy indignation* is sometimes a little *hot*. "Friend of publicans and sinners," was written on the raiment of him, whose shoes and whose name I am not worthy to bear.

But to the subject. I shall tell you the *history* of my opinions upon this matter, *what they are*, and the *reasons for them*.

Twenty-five years ago, when an under-graduate in Bowdoin College, Maine, I travelled fifteen miles on foot, to give my first lecture upon the subject of temperance, availing myself largely of statistics from an address by Chas. Sprague, Esq., of Boston, and I think also from a sermon by Dr. Humphrey.

From that time up to the year 1840, I gave repeated temperance lectures in various places, all gratuitous; travelling commonly at my own expense. In 1840 and '41, I was employed by the State Society of Maine, to lecture upon the subject through the State. During that period, I made the whole subject a *study*, according to the best of my abilities, and arrived at some fixed and definite conclusions. I conversed personally and freely, I presume, with more than one thousand drinking men; got at, so far as possible, the cause, the progress, the temptations to this vice, and the reason for continuing the habit. The causes were various: some outspoken, square-faced fellows, said they drank because they loved it; some to bury sorrow, some because they were social, and were in the company of drinking men. I found that if drinking or drunkenness is the only vice of which a man is guilty, there is hope of him; but very frequently the whole foundation of moral character, is in such cases gone. Not only is the *breath* corrupt, but the *lungs* are rotten. Corruption within works out in drunkenness as one of its most terrible forms, but is by no means the cause of *all* other crimes, but almost always the chosen companion. It is commonly a sign of *inward* wo, and a sign too, that "all is lost." The process generally is, corruption running to excess in some form, and not rum generating corruption. The leprosy lies "deep within."

The subject of a prohibitory law was discussed in Maine from 1836 to 1841, with a great deal of earnestness, and my opinions were then, as now, that the thing is absurd, impossible, and unjust.

Now let us for a moment glance at the history and phases of the

temperance cause *itself*, up to the present time. From 1827 to 1833, the war was against *ardent spirits*. The weapons were, *facts, arguments, pledges of total abstinence*. In the favorite language of that day "Light and Love." And never were seven years more fruitful of good than those seven years. Never in so short a time in any country was such a change in the social habits and customs of any people. The angel of mercy came down and stirred the pure fountains of water, and *multitudes* were healed. There was perfect union among all classes, agreement in opinion, one object constantly before the mind, and that steadily pursued. Believers were every where added to the ranks of temperance, both men and women. The angel of temperance with the pledge of total abstinence in her hand, wore her robes without a spot or blemish. Nothing could be said against the cause. The call was for voluntary efforts, willing sacrifices, chosen self-denial. Again and again, were coercion, threats, and penalties repudiated. It was the triumph of reason, kindness and love, over habit, custom, and appetite." The effort every where showed the qualities of mercy, it was twice blessed. "It blesses him that takes, and him that gives." It bore such fruit on all its branches, that it seemed the harbinger of the day of universal love. So it was with the gospel of Jesus Christ, during the first three hundred years of its history upon earth. Her weapons were not *carnal*, but mighty—and as soon as they became carnal, they were no longer *mighty*.

The first decree of Constantine, in 313, was an act of *toleration*, making the Christian religion equal as to civil privileges, with idolatry. The former gained *constantly*, but *slowly* upon the latter. The friends of the pure faith became impatient; they saw clearly the absurdity of idolatry; besides it degraded, shockingly degraded its worshippers; it *lead* them into all sort of crimes—idolatry was a dreadful *temptation* to some of the best minded people in the world,—they always, when accused, charged their sins over to their gods. "Abolish the idols," said the Christian sages of that time; "let us have a *prohibitory* law." And they at once had it; heretics were banished, idolaters put to the sword, and the sword of the church, in the hand of the Roman emperor, drank blood, and she herself drank the cup of weakness and trembling, and the martyrs fell on the wrong side, and their blood was the seed of idolatry, which sprang up in sacred relics, images of the saints, and the transfusion of the pagan philosophy through the entire doctrines of Christianity. Such was the effect of a prohibitory law introduced to accomplish a moral and spiritual end. That was the first *prohibitory law*, intending to change by law, the habits, customs and opinions of a large portion of the community, wielded by the hands of Christian men. There have been plenty of them since, and they commonly destroy their authors, after inflicting incredible evils upon society.

In 1833, the *wine question* was introduced, and brought conflicting opinions in contact with each other, in temperance societies and conventions. The early signers of the ardent spirit pledge, however, mostly concurred in the exclusion of wine. On this subject there was a great deal of bad argument and worse exegesis, in trying to show that the wine spoken of in scripture, was not *real* wine. Of course the attempt failed. "Some," says the historian of that period, "who had delivered

public addresses, and stood foremost in the rank of reformers, were thrown into the back ground, and stood as silent spectators of passing events." (Davis p. 139.)

At or about this time, there was an attempt to promote the cause of temperance by patronage. Temperance taverns were opened all over the country. With some few exceptions, the attempt was a complete failure. It ended in mutual recriminations and hypocrisy. The landlords complained that they did not receive the encouragement held out by the resolutions of the temperance conventions. The friends of temperance on the other hand, complained that the landlords carried the matter farther than they intended, and gave them not only harmless drinks, but also set before them tables without any *temptations* upon them.

In 1840 the whirlwind of Washingtonianism passed over the country. This did some good, brought a few up from the depths of sin, and led them to the Lamb of God, and they have become pillars in his temple. Too many of them, however, gloried in their shame. Without a single qualification save that they were not *then* drunkards, they became public teachers of a new philosophy, that all the force of sin was in the temptation, all the guilt of sin was in the person next behind the temptation, and the poor suffering *sinner* was the innocent victim of these double wiles. This philosophy has swept upward into legislative halls. It is one of the leaves from that tree of knowledge, from which we learn that all sin is the result of the wicked organization of society. The effort to legislate upon this subject, is the first time that society has consented to make itself responsible for this doctrine.

And now we come to the law—the law which attempts to outlaw all intoxicating liquors as a beverage. This result must be reached as I affirm by choice, and not by compulsion—by *conviction* and not by legislation. And if you attempt to reach it by legislation, and fail, then you become simply ridiculous, and the cause in whose name you operate is dishonored; and not only dishonored, but its friends discouraged, and its enemies will triumph openly.

A prohibitory law upon this subject, to my mind, is just as impossible, in any part of the civilized world, as it is impossible to make a broom that will sweep all the stars out of the sky every night; or to remove the ocean by dipping a sponge into it and then squeezing it out upon the shore.

An early and constant friend of this cause, says of all partial efforts, "As well might the ocean be poured upon the Andes and its waters be stopped from violently rushing down their sides."

"The reformation of a town, or even of a State, is but emptying of its waters the bed of a river, to be instantly replaced by the waters from above; or like the creation of a vacuum in the atmosphere, which is instantly filled by the pressure of the circumjacent air."

But *logic*, and not *rhetoric* is wanted upon this subject. Take *all past experience*—put that down as the first reason. It is not for the want of *attempts* at this kind of legislation that there is not such a law now. Tennessee, Mississippi, Illinois, and Massachusetts passed prohibitory laws on this subject thirteen years ago, and they immediately became a dead letter, or were repealed. The historian of that period, now says :

"From 1836 to 1840, the cause advanced slowly. The subject of License Laws was discussed largely in legislatures, and some unwise laws were enacted, which diverted the public mind from the great work in which they had been successfully engaged." (Davis, Half Century, page 140.) What were the *license laws* here spoken of? Prohibitory laws! During all this time the legislatures of half the States, have been trying to improve the laws upon this subject so as to stop or diminish the traffic in intoxicating drinks.

Some twenty thousand men have had their minds directed to the matter, as legislators, and have tried their best, and no prohibitory law has yet been found. The truth is, no man can see through this subject,—take the circumstances into his eye, and absorb them into his law, so that it will work in practice. A man that can make a good law, entering into and permeating society; touching all parts of the body politic, pressing not to break here, nor letting aught escape there, is a great man. Laws are the most delicate machinery that happens to be in this world. A man who makes and perfects a good law, pays the world a thousand times for living in it. Laws are the fruits of past centuries—the seeds of all future years, springing up around every generation with fresh blessings. Always spending themselves, and yet ever growing stronger—the older they are, the quicker their perceptions—the more quietly they sleep, the more certainly they watch. The less they say, the more they do—the less they are known, the more worthy of fame; their obscurity is their honor—the fewer their victims, the more complete their victories. You would think it a very difficult task to introduce a new nerve into the human body, so that it shall perform its own functions and not disturb the functions of other members of the body. It is likewise a very difficult thing to introduce a new organic law into society.

That past attempts at legislation have failed, is proved from the report of the committee who brought forward the Bill. They say "existing laws have proved a failure." That this is so, so far as the present laws pretend to specify for what purposes liquors shall be sold, is true, I have no doubt. But that the Laws of this State have done great good by limiting and restraining the traffic, there can be no doubt. And if they were not denounced, and were executed, as they would be if they were not denounced, they would do a great deal more good. But one exception remains against this otherwise universal *experience*. "Maine, it is believed," says the report, "has struck the true principle."

This belief was soon shaken in the minds of honorable Senators; for at the close of the debate, one Senator, a friend of the law, says:—"this is no Maine Law since your numerous amendments to it; and the Maine Law was what the people asked for. This has *none* of the *vitality* of that law." Here you are again, afloat on the tide of endless experiment—trying to do an impossible thing. "If the mind," says McCosh, one of the best of Scotch metaphysicians, "If the mind can be brought to philosophical humility, in no other way, let it be by its being driven on that wall of adamant, of which Sir James McIntosh speaks. "The wall of adamant which bounds human inquiry, has scarcely ever been discovered by any adventurer, until he has been

roused by the shock that drove him back." The wall of adamant in the line of prohibitory laws, can be found in no other way probably. But the Maine Law *has* worked well in Maine. What are *nine* months in the life of a law? It shows no more what the law is, nor what it will do for society, than an infant nine months old, shows what kind of man he will make. Almost any scheme in the hands of its originator, filled with enthusiasm, working with a zeal that never sleeps, will produce great apparent and immediate results. New plans of healing the diseases of the body are often proposed, and *proved* too, by actual success. In second hands the thing nearly fails. Six months in cold water does not soak out total depravity; and while there is a depraved heart there will be depraved appetites; and with these, *crimes and diseases*.

Jonathan Edwards,—preaching original sin at Northampton, and God's method of healing it by the salt of his grace, carried to the fountain, the heart, by his Spirit,—did more to heal all manner of diseases and prevent all manner of crimes than any number of Round Hill Baths or prohibitory laws. "Marvel not that I said unto you, ye must be born again." If you can do *that* work, then work away to enact laws to make men better; but till then you had better punish overt *acts*, and let *intentions* alone. Let men be tried for *acts done*, and not arraigned because some person, ever so good or ever so bad, ever so discriminating or ever so hasty, says "he believes, and has reason to believe" that such a person *intends* to commit an offence.

This leads me to an analysis of the law, and the circumstances under which it is to operate. The end and aim, professedly, of the law, is to prevent crime, by taking away from those who use intoxicating drinks, this temptation to crime. Can you reach it by legislation? Suppose the Law passed and executed. All the liquors manufactured in this State and in this Country are out of the hands of drinking men. The ocean, on every wave and from every port in the civilized world, brings it to our ports, in all quantities, from puncheons down to pint bottles. The importers can sell it to every body, and every man can buy it, and those who cannot buy it in the measures furnished can club together, and then divide it. And every man for whom you spill one barrel of rum, which he believes is property, and which you have sanctioned as property by your law, and license, and sale, will buy ten barrels and give it away; and intoxicating drinks will then become a *temptation*, as they never have been before. Then you have Canada on the north, and every railroad will become a river of death to the community.

But suppose you could carry legislation a great many steps farther, and get Congress to forbid its importation; have you banished the *arts*? Have you stopped the sun from shining? Wherever there is seventy degrees of heat falling upon the juice of almost any vegetable, there is fermentation, and fermentation is the mother of alcohol; and I should just as soon think to make a law against fermentation, except for certain purposes, as to make a law to regulate the use of the result of fermentation. Or, you may carry it one step farther. The sun is the cause of fermentation, as I "have reason to believe and do believe,"—put him for sixty days into the arctic zone.

Every vegetable on earth that has one particle of saccharine matter in it, has only to be put in water till it ferments, and you have alcohol; five dollars or less will put a distillery into the house of every man who wants it. England put a very heavy duty upon whiskey carried into Ireland. *Private distillation, concealed distillation went on* all over the kingdom. The British Government had not power to stop it by pains and penalties. Where drinking abounded, introduced and regulated by law, it did much more abound against the law,—over the law.

Besides, you admit by your law that intoxicating liquors must be *made*—must be sold—for certain purposes; that they must, in short, be within the reach of every man in the community. But you say, for certain purposes, which you define by law, and which I say must be forever settled by the voluntary fiat of the man who buys. Here is a point which, unless you are omniscient, you can never settle. You can never go one step beyond the *discretion* of the seller, and the *moral sense* of the buyer. The seller of an article so liable to abuse, so constantly abused, should certainly be a man of integrity, and sell only for the public good. You say he shall sell for certain purposes only. Suppose he is honest, upright, and intends to do so. Will not those very persons who abuse the article make *false* pretences? The very men from whom you *need no* declaration, will make a *true* one; and those who ought not to have it, will make a false declaration.

Suppose two men,—neighbors,—both standing precisely alike as to character in the community. Each says to the other, “I must have some liquor;” both want it to drink, and they avow it to each other. Both go to the public store; one tells the truth and does not get it, the other tells a lie and does get it. Very well, you say, men often get things under false pretences,—that cannot be helped. Certainly not. But what effect will this operation have upon the *mind*, the *passions*, the *appetites* of this man who told the truth, and lost his dram by it? Is his desire abated, his purpose changed? So far from it, that what was before incidental, and subordinate to other purposes in life, becomes ascendant; it takes possession of him. He has now not only an appetite for drink to be gratified, but he has, what he at least considers, an injustice to be avenged; and he will do it by seeking in other channels the gratification of his appetite, and by hating this law. He will oppose it—overthrow it—if he can. Let us see how that stands. Look at the number of victims of this law, and see whether it is probable you can execute it. I do not know the proportion of a community who may be habitual offenders of any law, and yet that law, in some cases, may be executed. But I think the number must be very small.

A very large majority of laws are kept by most citizens from their respect to the principles of the law. And when, for any reason, a considerable portion of the community are, openly or secretly, violators of any law, in spirit or in form, you cannot execute it. A proprietor of land in one of the Western States sued for rails taken from his land by one of the neighboring citizens. The case was proved by an eye witness,—no doubt was on the mind of the court or the bar. Verdict, “not guilty.” When the jury were set free, the astonished proprietor asked one of them the reason of so strange a verdict. “Why,” said he,

"there were six men on the jury who fence their farms in the same way."

Now this law reaches fairly, in its moral bearings, every man who drinks, as well as he who sells intoxicating drinks as a beverage. You need tell me nothing about the sympathy of the hard drinkers with this law, so that temptation shall be moved out of their way. That may be the feeling for a moment, and at times, and it is a good excuse to cheat you and sometimes themselves with. It seems you dare not trust a man who sells, on the jury; will you trust a man who drinks? Whatever an individual might do on the bench or in the jury-box, every man who *buys* intoxicating liquors as a beverage will feel that whatever the guilt of the man who sells to him or the like of him is, his own is just equal to it, and *deserves* the same punishment, whether it can have it or not. Would a Senator debase his moral sense by voting for such a law, to press hard upon others, when he did not intend to keep it himself? Would a Governor sign a bill exposing a man to sixty days in prison as a felon, when he meant to persevere in both *buying* and *drinking*? Would not a Judge hesitate to sentence a man to prison who had sent him, that very day, three bottles of wine from an imported cask? But you say all these men, if they continue to drink, will get it by the cask, and in lawful ways. Will that lead you to respect them, or will they respect themselves any more for that? Will they make or execute a law upon others, the burdens of which they will not take upon themselves? The farmer who makes a barrel of cider on his own farm, from his own orchard, and keeps it thirty days till it ferments, and then sells it, is, by this law, subject to a fine of \$100 for the first offence and imprisonment for sixty days if the fine is not paid. For the second offence the penalty is doubled; and for the third offence the fine is \$200 and imprisonment four months in the common jail! Now I do not know but the people of Massachusetts are ready to execute such a law as that; but in the language of another, "there may be those who think that such an extreme system of legislation will work out a *moral reformation*." "If you think so, I confess you are too strong for me. You are the victor in the debate. *But before I can say that you are not the victim of a strong delusion, God, in his great mercy, must cure me of mine.*"

It may be said, in answer to this, that the line between what are and what are not intoxicating drinks is not very clearly defined, and that, probably, the law will not be construed to cover cider and house beer. The answer is, these are covered by the words and a fair interpretation of the words of the Bill. Besides, previous legislation shows precisely, so far as certain things are concerned, what it must mean. In the Revised Statutes there is a distinction made between *fermented* and *distilled* liquors. Rum, brandy, and other spiritous liquors are named in one class; wine, beer, ale, cider, and other intoxicating drinks are put in another class. In a law additional, and passed in 1850, the word spiritous is stricken out, and intoxicating substituted for it; so that the word intoxicating becomes a generic and common name for both *distilled* and *fermented* liquors. This proposed law specifies nothing, but says; "spiritous or intoxicating," by which they *must* mean all that have been named in previous statutes, and to which these words have been applied.

It will certainly be news throughout the civilized world, that a man may be imprisoned four months in Massachusetts, for making and selling the very article which Christ made and gave away at Galilee. Of all the wines on earth on which men get intoxicated, I know of none worse than the *wine of self-righteousness*. This turns the most quickly into the acetous fermentation.

It will be said, again, that it is not the intention of the law-makers to execute it upon cider and small beer. Why not say so in your Bill then? Besides, if you do not intend to imprison men or women for making or selling small beer, as most certainly may be done under this law; yet will persons consent to live under such a liability? Are you sure no envious or revengeful neighbor may be found, who will watch for such an opportunity? If you knock in the head of your neighbor's barrel of wine or gin, will he not find an opportunity to avenge himself on you, or some friend of this law, who exposes himself to its penalties by delivering any where in the Commonwealth, except in his own house, three bottles of beer, wine, or cider? Will such a law as that be tolerated? will it spread light and love? will it be for the peace, good order, and happiness of the people of this Commonwealth?

But the bill goes farther. If any three persons, voters in any town, shall make complaint under oath, that they have reason to believe, and do believe that intoxicating drinks are kept and *intended* for sale — then the justice *shall issue his* search warrant. No discretion is here left to the Judge. The premises of every man are subject to search, if three men, (as amended,) one man affirms that he believes liquors are there intended for sale; and his dwelling house, if he believes they *have been* sold. The person complaining need not affirm that it is so, but only that he *believes* it is so. Now some persons believe on a very small amount of evidence, and the less the evidence, the stronger the faith. The imagination can multiply evidence as fast as the microscope living creations on the waving leaves of the forest.

Some persons believe the glorious and happy spirits of the dead are sent under tables to answer silly questions and enrich knaves, but do you want the search warrant to be at the mercy of persons of so easy faith?

Another feature of the bill, looks to me a little like vengeance — a feature that will neither promote morals, good feeling, nor temperance — a feature which will exasperate and sting for years to come, wherever this law shall have been executed. I refer to the destruction of the liquors. This is said to be essential to the law; if so, it only shows how absurd the attempt is to frame a prohibitory law. While the law provides for the destruction of gin or brandy, by the officers of a city or town; another officer of the same city or town is buying another barrel for the public store. Why this wanton waste? Why not confiscate your seized liquor, and save buying a barrel? Is it for the moral effect? The only effect that I can see it is likely to have is a very immoral one. It will sting to madness every man you treat in this way. However it may seem to you, it will look to him like the wanton exercise of power. Justice has no such attribute as this. All laws are, or ought to be, to establish and maintain justice. The foundations

of her throne are too deep, she sits too calm and serene upon it, to indulge in this apparently spiteful and revengeful proceeding. This destruction, has been compared to the destruction of the instruments of gambling and counterfeiting. If the same government kept a store to sell gambling and counterfeiting instruments, the cases would be parallel. The United States *seize* and sell contraband goods — why not *use* rightly, what was intended for a wrong use, and save the distillation or the importation of just that quantity? Or why not send it out of the State? You allow the distiller under this very law to send it out of the State, in any quantities, and for any purposes, to which the purchaser may think best to apply it. Why not be consistent, and allow them to send it only to the States where a prohibitory law will cover it, and keep it from mischief. This is not doing by your neighbors as you do by yourselves. And if other States do the same, then the citizens of one State can be supplied from another, to any amount, and for any purpose except for sale.

This shows, clearly to my own mind the absurdities into which men plunge, when they try an impossible thing. Error is always contradicting itself, and so is folly. Under which epithet this law shall range itself, belongs to its friends to decide.

It attempts impossibilities, and is therefore crowded with absurdities. It would take away temptations, and offers a bribe to hypocrisy. It wets the streets of this State with rum, and then sells it freely to its neighbors. It sells with one hand what it wastes with the other. It groups everything together under generic terms, and defines nothing. It sells for specific purposes, but marks no boundaries, makes no limits — Chemical purposes! and when a man has mixed brandy and water in equal parts, and find they combine perfectly, has he not tried a chemical experiment? And when he drinks it, and tries its effect upon the animal economy, he has carried the chemical experiment one step farther. Don't chemists often try their drugs upon themselves? Then medicinal!! What man that wants to drink, that cannot feel just sick enough to need such medicine. He knows what will cure him, and he tells you it does so, it goes right to the spot. Who can gainsay it? Who can disprove it? Xerxes flung chains into the angry Hellespont. Canute commanded the tide. Legislative folly has its successive incarnations.

There are two other objections, in my mind, to this law, and those are: it is a violation of the early professions of temperance men upon this subject; and is really an attempt to do *one thing*, under pretence of doing another.

If these objections are sustained, tolerant and honorable men, it seems to me, ought to pause.

You honor pirates for one thing; they hoist the black flag and sail under their own colors.

Now all, or nearly all the early advocates of this cause, gave public assurances, that they did not then, nor ever intend to make temperance a political engine, nor would they attempt to coerce men in their opinions. They did not say, that the law should not be used, but they did say, that as temperance men, they would not grasp political

power and use it technically for the cause of temperance. These pledges were given in good faith, by men, some of whom are dead, and some of whom are yet alive. Will you falsify this pledge? Do you deny that it was made? No one I presume will do this.

But it will be said that this law is to prevent crime and pauperism, and has nothing to do with *temperance*, in a technical sense, nor any intention of a *moral* bearing other than what every good law has. Can honest and fair minded men say this? Are not the temperance *cause* technically so called, and this law *identical*?

What is the pledge of the temperance societies? "*Total abstinence from intoxicating drinks as a beverage.*" Is not that the very central point — the heart — the life blood of the law? If the Senators had told any temperance society in the State, to bring in a bill, could they have done any more than put their pledge right square into it? But this you say, is the movement of a spontaneous uprising of the people; is not specific legislation for temperance men, nor brought forward by them. Did the venerable prosecuting officer for Suffolk County, suggest this bill? Have the prosecuting officers throughout the State asked for it? Has one Grand Jury petitioned for it? Have the Bar seen their way through it, and do they tell you it can be executed? When the people move spontaneously on a subject, and that subject the suppression of crime, a voice will be heard from some one or all of these sources. Whence comes the law then? Whence the influence that urges it forward. From the most active temperance men in New England. What says the writer who introduces this law? and the statistics accompanying it, into Massachusetts? This is done in in a small pamphlet of sixty-four pages, containing an introduction, the law itself, and statements from different persons about the operation of the law. This is the pamphlet which has turned the head of Massachusetts, and driven her back to re-enact the folly of 1838.

In the preface, the writer says: "The Law constitutes an era, and is fast producing the most important revolution on the subject of *Temperance*, not only in this State, but throughout the *Union*, and in all *civilized countries*." Again he says, this Law is "*serving as the instructress of the world.*" "*Instructress of the world.*" Yes, it will teach the world — and what will it teach the world? Why that "light and love," mean law and force. That is the lesson to go forth to the world from this law. That men have no faith in light, or are too impatient to wait for it, and have just love enough to make all other men do as they want them to do, when they have the *power*. Again: "It substantially *compasses* the whole subject, and deserves to be entitled the **MODEL TEMPERANCE LAW.**"

That writer told the truth. It is a *Temperance Law*. Why not then call your Bill, "*An Act to promote TOTAL ABSTINENCE.*" That would be the exact truth, that is its objects; but it would not sound well. It would look as though the temperance society had taken the reins of government into its own hands for its own purposes. Good purposes of course. All intolerant laws originate in good purposes. But good purposes will not compensate for the violation of solemn pledges, nor for the destructive effects of bad laws.

Look into the Senate. What says one of their own number? There is "a want of honesty in some men on the subject; they held one doctrine and pursued another; pointed in one direction with the finger, and another with the heart. If there was no pretence on this subject, there would hardly be a majority in the Senate." (Hon. M. Lawrence.)

Is that spontaneous? is that the voice of the people? is that the wisdom of calm deliberation and a clear eye to the public good? And *who* make Senators dodge on this subject,—speak one way and vote another,—and hide themselves under the fig leaves of a proviso to send it to the people, just as their ancestors in the garden of Eden hid themselves in the case of another prohibitory law? I say, what makes them do so? Because the flaming sword of temperance men looks every way at them, and they "tremble as a bird out of Egypt, and as a dove out of the land of Assyria." And sure enough,—well they may tremble. Are not the pains and penalties already prepared? And has not the eloquent young Senator from this city been told that he had woven his political winding sheet, by his speech and his vote? Does any one charge that he did not vote and speak according to his convictions? that he did not seek the public good, as he saw it? Certainly not. What is the charge? He did not vote to *enact the pledge of Total Abstinence into a law!* I honor him for it. And if he should be ostracised for this vote, he can be consoled by the saying of a very shrewd man; "*The Athenians sent their best men into exile; we, more humane, only remove them from office.*" The Athenians were also, I think, in the habit, in all times of difficulty, very soon to recall their banished men.

Here you have it, moved by temperance men, with the total abstinence pledge in the law, and to be followed by political proscription. Is not that political action? Bringing temperance square into politics, and violating your own pledges? And is this political proscription and this law right? Have you a right to pass it, according to all the established laws of toleration in the civilized world? To this question I say NO, most distinctly.

Five years before the commencement of the temperance reform in this country, some American Missionaries went to the Sandwich Islands, in the Pacific Ocean, to carry them the Gospel. In a very short time the king, many of the chiefs and nobles, and a large number of the people became Christians,—many really so, some nominally. The obscene rites of idolatry were abolished, and the law of nature and Christianity in regard to marriage was restored. Some of the chiefs—some of the people—still clung to idolatry. The king has a Christian for his counsellor—the whole administration is intended, indirectly, in all ways that it can, to favor the new religion. But out of the idolaters, there are taken plenty of criminals,—it is expensive to try them,—many of them sink down into poverty, and die miserably. To the Christian mind, surveying this picture, idolatry is the cause of the crime—it is against the State—the public good requires that idolatry shall cease—we must banish it with pains and penalties. In any age but this the thing would be done at once, and directly. But suppose the advisers of the king do not touch any *man's faith* at all, do not legislate

for religion, but make a prohibitory law, forbid the manufacture or the traffic in idols, and then appoint a public agent to manufacture, and another public agent to sell idols, only as specimens of the arts, and as models of mechanic skill. Would such a law stop idolatry? Have the Christian portion of the Sandwich Islands the right to deny an *idol* to an *idolater*? Every obscene rite they may, they ought to punish: have they a right to go farther?

Again, suppose the Missionaries to Turkey succeed in converting a majority of that Mahomedan kingdom. A large minority is left. The Koran is their faith and their practice. But the Koran, as Christians believe, is injurious to good morals. Touch not the faith of the Mahometan, but forbid the Koran to be printed, except on public types,—to be sold, except at the public store,—and that to be used for *Literary* purposes only,—outlaw it as a beverage to faith:—have you a right to do it?

Have you a right to change by coercive measures the habits and usages of one half the people of this Commonwealth? I doubt it. And if you have the right, I am certain you have not the power to do it; and you will come out of this conflict with wet feathers and trailing arms. The voice of all experience is on the other side of this question. Every thorough examination of the whole subject will bring the mind to this result. The people, wish to promote temperance, they are assured this law will do it, therefore they petition for it. Let them examine it—put the other side to them, and if they do not reject it then; a year or two of strife, a net-work of lawsuits all over the State, alienation of feeling, a whole community demoralized and debased by violence of language, and the flames of retaliation will convince them, and convert them from all attempts at prohibitory legislation upon this subject.

But what *can* be done? First I say better to bear the ills we have, than fly to others we know not of. One great reason of the intemperance in this country, is the intensity of life here. When the steamboat races, the oil will be poured on. A log cabin and a mug of cider made one man president. The excitement under those mottoes, burnt up ten thousand temperance pledges; and would have swept your prohibitory laws into the ocean. The excitement in California, has not so far subsided, that the temperance pledge has much power there. If you want to do more to destroy temperance in one year than you can regain in five, pass this law: and the excitement and the strife which it will produce, are the very soil in which intemperance in drinking, finds its most numerous and easy victims. Society has been stimulated, till it has been strained. It asks repose and reflection.

And now in conclusion, permit me to enrich your minds by an extract from a review, on this subject, written by one of the most learned divines, and philosophic minds in this Commonwealth—one of the earliest and one of the strongest friends of the cause—the Rev. Mr. Withington, of Newburyport.

“If any person can devise a plan for prohibitory legislation on the sale of intoxicating drinks, not involving the greatest inconsistency even in the very scheme, then I will acknowledge he has done what surpasses the utmost flights of my imagination. His very plan must be a

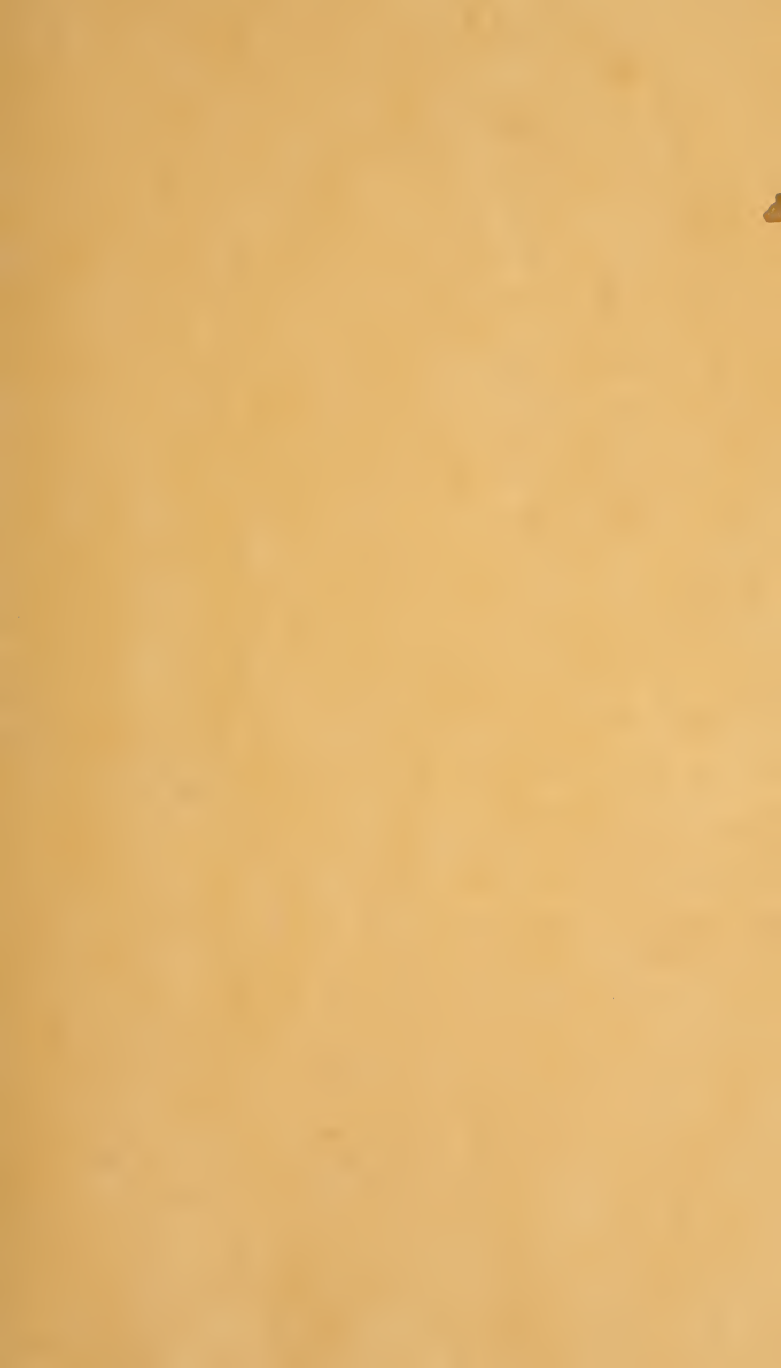
square wheel made to roll. But how absurd it is to expect success in the execution, where you cannot even devise consistency in the design! You launch a vessel full of holes, and expect her not to sink. Some of the sages of our day have actually proposed that the sale of ardent spirit for a beverage should be placed on a level with counterfeiting money, and subject a man to durance in the state prison; and they expect such a law to be executed! If we are to reason from rhetoric, rum is poison, selling it is murder, and hanging is the punishment. Yes, send them all to the gallows! I desire to bear my solemn testimony, and to say though I have seen frequent attempts, I never knew any good to come from such legislation. I have seen men *exasperated* by it, but never *reformed*.

So it ever has been, and so it ever will be, until nature itself is changed. I was in Connecticut when attempts were made to enforce the observance of the Sabbath by law. I saw hypocrisy, power, passion, haughtiness, indignation, force, threats, and cursing; but I saw no promotion of meekness among Christians, or repentance among sinners. The contest was long, and the fruits were bitter. Laws are intimately connected with manners. Depend upon it, if such a system of legislation is once adopted and sustained, there will spring up a system of manners hateful and dreadful in the extreme. It is common to meet such remarks as these with pathetic descriptions of the evils of drunkenness; the brutal husband—the weeping, starving children—the *thrilling facts*, as they are called—which, if they do not subdue our reason, ought to melt our hearts. It is true, drunkenness is a great evil. God forbid that I should say ought to diminish it! It is one of the sorest curses that a fallen world has been doomed to feel. But the question is not, among sober men, whether vice is an evil, but what are the best means to remove it; and I venture to prophesy that it will never be done by prohibitory legislation."

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